IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL MISC. APPLICATION NO.39/07

Smt. Kusum Devi & Ors.

Versus

Dunga Ram & Ors.

DATE OF ORDER :: 27/09/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Sandeep Mathur, for applicants
Mrs. Sharda Pathak, for respondent

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Instant application has been filed seeking clarification of order dated 5th October, 2006 passed by this court in Civil Misc. Appeal No.1811/05.

Misc. appeal was preferred by appellants assailing the Award passed by learned Tribunal dated 9th May, 2005 whereby the claim petition after computing the compensation for which claimants were entitled, was dismissed on the ground that Tribunal has no local territorial jurisdiction to adjudicate the claim petition.

From the order dated 5th October, 2006, it appears that only objection raised before the court was as to whether the Tribunal has local territorial jurisdiction for entertaining the claim petition and this court after adjudication decided the issue which was specifically raised for consideration vide order dated 5th October, 2006.

By the present application, it has been requested that the amount which was computed by learned Tribunal must carry interest. Since that part is missing from the Award as well, this court may make clarification to award interest in terms of Section 171 of the Act.

Counsel for respondent-Insurance Company has opposed their application and submits that no such issue was raised with regard to interest which is implicitly not pressed before the Court, as such the present application seeking clarification is not maintainable.

After hearing counsel for parties, it appears that during the course of arguments, appeal was confined to examine the local territorial jurisdiction of Tribunal which was adjudicated in the matter.

It is true that Section 171 of the Act provides to grant interest, but in the facts of instant case, the appellants raised the question of jurisdiction only which was considered and decided. This court is not required to consider the argument which was never advanced at the time of hearing, as such instant application is not sustainable.

Consequently, the misc. application stands dismissed.

[AJAY RASTOGI],J.